

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

MICHAEL PATTON,

Plaintiff,

v.

ESA P PORTFOLIO, LLC, et al.,

Defendants.

Case No. 1:20-cv-01498-DAD-SKO

**ORDER DENYING IN PART AND
GRANTING IN PART DEFENDANTS'
EX PARTE APPLICATION FOR ORDER
SHORTENING TIME**

(Doc. 43)

Before the Court is Defendants' ex parte application for an order shortening time to hear their motion to strike Plaintiff's non-retained experts and to modify the scheduling order (Doc. 47), filed January 12, 2022. (Doc. 43.) Defendants state that an order shortening time is justified in view of their expert discovery deadline of February 1, 2022, and request that the Court set a hearing date, an opposition deadline, and a reply deadline, for their motion. (*See* Doc. 43-1 at 4; Doc. 43-3 at 2.)

Defendants' motion to strike Plaintiff's non-retained experts and to modify the scheduling is brought pursuant to Fed. R. Civ. P. 26(a)(2)(C) (and, presumably, Fed. R. Civ. P. 37(c)). *See* Doc. 47. Accordingly, it is governed by this Court's Local Rule 251. *See* E.D. Cal. L.R. 251 ("Motions Dealing with Discovery Matters"). Defendants' motion therefore needs no opposition or reply deadline, but instead requires the filing of a "Joint Statement re: Discovery Disagreement" (or

1 of an affidavit explaining why the Joint Statement cannot be filed) at least seven days before the
2 scheduled hearing date. *See* E.D. Cal. L.R. 251(a), (c), (d). Defendants' ex parte application (Doc.
3 43) is DENIED IN PART to the extent it seeks the setting of opposition and reply brief deadlines.

4 The Court is mindful of the upcoming expert discovery deadline, and its requirement that
5 discovery motions be "filed and heard sufficiently in advance of the discovery cutoff so that the
6 Court may grant effective relief within the allotted discovery time." (*See* Doc. 18 at 3.) Defendants'
7 ex parte application to shorten time (Doc. 43) is therefore GRANTED IN PART, and Defendants
8 are ORDERED to make the required filing under Local Rule 251(c) or (d) **by no later than January**
9 **21, 2022**, at which point the Court will take the matter under submission.

10 Alternatively, if the parties agree to proceed with an informal telephonic conference
11 outside the formal procedures of Local Rule 251, Defendants SHALL request such conference **by**
12 **no later than January 21, 2022**, pursuant to the process set forth at:
13 [https://www.caed.uscourts.gov/caednew/assets/File/SKO%20Web%20Info_revised_3_16_2020.p](https://www.caed.uscourts.gov/caednew/assets/File/SKO%20Web%20Info_revised_3_16_2020.pdf)
14 [df](https://www.caed.uscourts.gov/caednew/assets/File/SKO%20Web%20Info_revised_3_16_2020.pdf).

15
16 IT IS SO ORDERED.

17 Dated: **January 13, 2022**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE